

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMINE TOUARSI,

Plaintiff

v.

**UNITED STATES DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530**

**UNITED STATES DEPARTMENT OF
HOMELAND SECURITY
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20229**

Defendants

C.A. No. 1:13-cv-1105

COMPLAINT

Plaintiff Amine Touarsi brings this action against Defendants U.S. Department of Justice and U.S. Department of Homeland Security, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, for injunctive and other appropriate relief, seeking the release of agency records related to the unauthorized monitoring, arrest, and detention of Plaintiff.

JURISDICTION

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over Defendants pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

VENUE

2. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391.

PARTIES

3. Plaintiff Amine Touarsi is a resident of Massachusetts. Plaintiff is originally from

Oran, Algeria.

4. Defendant United States Department of Justice (“DOJ”), located at 950 Pennsylvania Avenue, NW, Washington, DC 20530, is an agency within the meaning of 5 U.S.C. § 552(e), and is in possession and/or control of the records requested by Plaintiff which are the subject of this action. The Federal Bureau of Investigation (“FBI”) is a DOJ component.

5. Defendant United States Department of Homeland Security (“DHS”) is an agency within the meaning of 5 U.S.C. § 552(e), and is in possession and/or control of the records requested by Plaintiff which are the subject of this action. The United States Customs and Border Protection (“CBP”), located at 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, is a DHS component.

STATEMENT OF FACTS

6. From the age of 12, Mr. Touarsi worked at his family’s clothing business in Oran, Algeria. By 1990, he took over and ran the business.

7. Mr. Touarsi’s family knew Ben Bella, the former President of Algeria.

8. Subsequently, on or about late 1990, the former President surprised Mr. Touarsi by visiting his home.

9. At the time, the Armed Islamic Group of Algeria (or “GIA”), an insurgent group, was beginning to target businessmen like Mr. Touarsi.

10. The visit by former President Ben Bella made Mr. Touarsi well known in the community, and made him notorious in the eyes of the GIA.

11. Mr. Touarsi left Algeria in fear for his life.

12. In 1998, Mr. Touarsi applied for political asylum in the United States from Algeria due to his religious views, political affiliations, and opinions.

13. While Mr. Touarsi waited for a response for his political asylum application, he worked for a moving company in Massachusetts.

14. Mr. Touarsi was arrested by agents of the Immigration and Naturalization Service on December 30, 1999.

15. His arrest was purportedly at the direction of the Federal Bureau of Investigation, in connection with a suspected plot to “plant bombs” in the United States.

16. News of the investigation, including Mr. Touarsi’s name, was widely reported in the national and international press.

17. Mr. Touarsi was told by his cousin that friends living in France learned from the press that he had been arrested as a result of being involved in “terrorist” activities.

18. The press reports claimed that it was the view of United States authorities that the “terrorist” plotters were Algerians linked to the GIA and supported by Osama bin Laden. However, it was the Algerians linked to the GIA who had threatened Mr. Touarsi; he was never a member or supporter of the GIA.

19. Mr. Touarsi was never charged in any U.S. court with any criminal act.

20. After his false arrest on December 30, 1999, Mr. Touarsi was detained for eight months in a maximum security prison located in Plymouth, Massachusetts.

21. Mr. Touarsi was initially placed in solitary confinement for the first two weeks of his detention. He was under lock down for 23 hours and was not provided with any ability to call an attorney.

22. After two weeks of solitary confinement, Mr. Touarsi was placed into a prison cell with two other inmates for the remaining eight months.

23. While in prison, other inmates and the guards consistently verbally abused Mr.

Touarsi. They called him a terrorist and threatened him with physical harm and death.

24. After eight months in a maximum security prison, Mr. Touarsi was transferred to another prison for two months. There, he also endured the same abuse and threats of physical harm and death.

25. Mr. Touarsi was finally transferred to a New Jersey prison for an additional two months.

26. Mr. Touarsi was wrongfully detained for a year. He lived in fear of physical harm and death. He was exposed to humiliation and abuse.

27. On May 2, 2000, Mr. Touarsi's application for asylum was denied by an Immigration Judge.

28. On December 28, 2000, the Board of Immigration Appeals granted his appeal and Mr. Touarsi was granted asylum pursuant to section 208 of the Immigration and Nationality Act. *In re Amine Touarsi*, No. A78-161-736 (BIA Dec. 28, 2000).

29. The Board of Immigration Appeals found that Mr. Touarsi had a well-founded fear of persecution in Algeria on account of the political opinion that would be imputed to him by Algeria's government.

30. According to the Board, an individual who is suspected by Algerian security officials of sympathizing with or supporting a group like the GIA faces considerable risk of being arrested, detained, tortured, and even killed.

31. Following his release on January 12, 2001, Mr. Touarsi was monitored, followed, and harassed by law enforcement officers at social functions and at work.

32. The FBI and the Defendant DOJ have continued the surveillance and interference in Mr. Touarsi's normal life. Such surveillance has deprived Mr. Touarsi from his right to live

free from the government's warrantless interference.

33. Mr. Touarsi has lost many jobs and friends because of this unreasonable surveillance.

34. To this day, Mr. Touarsi feels that he is continuously under surveillance and cannot live a normal existence.

35. On March 23, 2012, Plaintiff submitted a FOIA request to the Federal Bureau of Investigation ("FBI"), a component of Defendant DOJ (attached hereto as Exhibit A) seeking access to copies of:

- a. All records related to Mr. Touarsi's arrest and detention in 1999 through 2001.
- b. All records related to Mr. Touarsi created and/or kept by the FBI.
- c. All records related and relied upon on the investigation and the arrest of Mr. Touarsi. This includes, but not limited to the outcome of the investigation and the release.
- d. All records related to Mr. Touarsi's surveillance by law enforcement since 2001 to date.
- e. All records and documents related to all investigations, reports, and conclusions concerning Mr. Touarsi in the possession of the FBI.

36. The Federal Bureau of Investigation ("FBI") never responded to Plaintiff's initial FOIA request.

37. On January 22, 2013, Plaintiff resubmitted his FOIA request (attached hereto as Exhibit B) following up from his March 23, 2012 request. The FBI responded to this request on February 11, 2013, releasing 56 heavily redacted pages of documents.

38. The FBI invoked FOIA exemptions 5 U.S.C. §§ 552(b)(1), 552(b)(3), 552(b)(5), 552(b)(6), 552(b)(7)(C), 552(b)(7)(D), 552(b)(7)(E) and 552a(j)(2), claiming privilege from disclosure of certain information and documents.

39. On March 19, 2013, Plaintiff timely submitted a letter appealing Defendant DOJ's determination arguing, among other points, that Plaintiff was entitled to adequate information relating to his detention, and noting that the documents were so heavily redacted that "very little information of value could be deciphered." (Attached hereto as Exhibit C).

40. As per the FedEx delivery receipt, the DOJ received the appeal on March 22, 2013.

41. As of the close of business on April 19, 2013, which was 20 working days after the request was received by Defendant DOJ, the DOJ failed to respond to Mr. Touarsi's appeal.

42. In fact, the DOJ never responded to Plaintiff's appeal.

43. Pursuant to 5 U.S.C. § 522(a)(6)(A)(ii), the DOJ was required to make a determination and respond to Plaintiff's FOIA appeal within twenty (20) working days after receipt of the appeal.

44. Because the DOJ has failed to comply with the time limits set forth in 5 U.S.C. § 552(a)(6)(A)(ii), and never sought an extension, Plaintiff has exhausted any and all administrative remedies with respect to his FOIA request, pursuant to 5 U.S.C. § 552(a)(6)(C).

45. On March 21, 2013, CBP responded to Plaintiff's January 22, 2013 FOIA request to the FBI, which the FBI had forwarded to CBP without notification.

46. Defendant CBP released only seven (7) heavily redacted pages of information, invoking FOIA exemptions 5 U.S.C. §§ 552(b)(3), 552(b)(6), 552(b)(7)(C), and 552(b)(7)(E), in which CBP claimed privilege from disclosure of certain information and documents.

47. Plaintiff appealed this determination on April 17, 2013 arguing, among other points, that Plaintiff was entitled to adequate information relating to his detention and noting that the documents were so heavily redacted that "very little information of value could be

deciphered.” (Attached hereto as Exhibit D).

48. Defendant CBP upheld the agency’s prior determination and denied Plaintiff’s appeal on May 15, 2013. (Attached hereto as Exhibit E).

49. As a result, Plaintiff has exhausted his administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C).

50. Plaintiff has chosen to pursue judicial review of FBI’s and CBP’s decisions pursuant to 5 U.S.C. § 552(a)(4)(B).

CAUSES OF ACTION

Count I

Violation of the Freedom of Information Act, 5 U.S.C. § 552

51. Plaintiff repeats and realleges paragraphs 1 through 50, *supra*.

52. Defendant DOJ’s failure to timely make available the records sought by Plaintiff requests violates the FOIA, 5 U.S.C. § 552(a)(6)(A)(ii).

53. Plaintiff is entitled to pursue judicial review of Defendant CBP’s denial pursuant to 5 U.S.C. § 552(a)(4)(B).

54. Plaintiff is being harmed by reason of Defendants’ unlawful withholding of the requested public records, and Plaintiff will continue to be harmed unless each Defendant is compelled to conform its conduct to the requirements of the law.

55. Defendants’ failure to make reasonable efforts to search for records responsive to the Plaintiff’s requests violates the FOIA, 5 U.S.C. § 552(a)(3)(C).

56. Plaintiff is entitled to injunctive relief compelling the release and disclosure of the requested agency records.

REQUESTED RELIEF

WHEREFORE, Plaintiff prays that this Court:

1. Order Defendants to immediately process all requested records;
2. Order Defendants to conduct a thorough search for all responsive records;
3. Order Defendants to promptly disclose the requested records in their entirety and make copies available to Plaintiff;
4. Order Defendants to expunge all records and information pertaining to Plaintiff after submission of such information;
5. Enjoin Defendants from charging Plaintiff fees for the processing of their requests;
6. Award Plaintiff his costs and reasonable attorneys' fees incurred in this action under 5 U.S.C. § 552(a)(4)(E); and
7. Grant such other relief as the Court may deem just and proper.

Dated: July 19, 2013

Respectfully submitted,

/s/ Alan R. Kabat

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